

MUR # 5557

October 5, 2004

Lawrence Norton, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 OCT -6 11:49

Re: Complaint against E.J. Pipkin and E.J. Pipkin for U.S. Senate, Inc.

Dear Mr. Norton:

I write this letter to file a complaint against E.J. Pipkin, a Republican candidate for U.S. Senate in Maryland, and his principal campaign committee, E.J. Pipkin for U.S. Senate, Inc. ("the Pipkin Committee").

The factual record shows that Mr. Pipkin and the Pipkin Committee have violated the Federal Election Campaign Act, 2 U.S.C. § 431 et seq., ("the Act") by failing to file a 24-Hour Notice of Expenditure from Candidate's Personal Funds, on FEC Form 10, with the required recipients.

THE FACTS

Mr. Pipkin is the Republican nominee for Senate in Maryland. The Pipkin Committee is his principal campaign committee. Barbara Mikulski is an incumbent senator from Maryland and the Democratic nominee for Senate in Maryland. The Mikulski for Senate Committee is Ms. Mikulski's principal campaign committee.

On September 30, 2004, the Pipkin Committee filed a 24-Hour Notice of Expenditure from Candidate's Personal Funds, on FEC Form 10, with the Secretary of the Senate. On this form, the Pipkin Committee indicated that as of the date of filing, Mr. Pipkin had made \$889,000 in personal expenditures with respect to his general election campaign. In the days following the filing of this report, Mr. Pipkin's campaign made references to these expenditures in the press that implied lesser amounts of self-funding. Neither Ms. Mikulski nor the Mikulski for Senate Committee received a timely copy of this report, and therefore were unable to refute Mr. Pipkin's representations about the extent of his self-funding.

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LEGAL DISCUSSION

A. The "Millionaires' Amendment"

Pursuant to the so-called "Millionaires' Amendment," which became law with passage of the Bipartisan Campaign Act of 2002, a candidate who does not use personal funds to support his or her campaign may raise funds under an increased individual contribution limit and benefit from extra party spending when running against a self-funding opponent. 2 U.S.C. § 441a(i). A candidate's eligibility for higher limits under the Millionaires' Amendment generally depends on the extent to which the self-funding opponent's fundraising advantage-- called the "Opposition Personal Funds Amount" -- exceeds a certain amount of money, called the "Threshold Amount," which varies state by state in Senate races.

The Millionaires' Amendment treats the primary election and the general election as two separate "election cycles." 11 C.F.R. § 400.2. The Opposition Personal Funds Amount is therefore calculated separately for the primary election and for the general election.

To facilitate the necessary calculations and implement increased limits when appropriate, the Act and the Commission's regulations require a self-funding candidate to file reports notifying his or her opponents of personal spending. Once the self-funding candidate's personal spending in an election aggregates to more than two times the Threshold Amount, the candidate must send a notice within twenty-four hours, on FEC Form 10, to the Secretary of the Senate, and copies to the Commission and each opposing candidate. 11 C.F.R. § 400.21.

B. Application of Law to Facts

The Threshold Amount in Maryland is \$315,240. A self-funding candidate in Maryland must file an FEC Form 10 when his or her personal spending exceeds twice this amount, or \$630,480. As indicated on his FEC Form 10, Mr. Pipkin's personal spending in the general election exceeded this amount on September 30, 2004.

Pursuant to the Commission's regulations, the Pipkin Committee was required to file an FEC Form 10 disclosing these expenditures on the following day with the Secretary of the Senate, and send copies of this report to the Commission and to each of Mr. Pipkin's opponents. However, the Pipkin Committee never sent a copy to Ms. Mikulski or the Mikulski for Senate Committee.

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For these reasons, the Commission should immediately investigate Mr. Pipkin and the Pipkin Committee. It should take whatever other action it deems necessary or appropriate under the law.

Very truly yours,



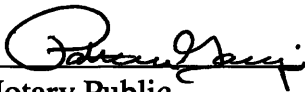
Michael E. Morrill
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STATE OF Maryland)
County of Anne Arundel)

SUBSCRIBED AND SWORN to before me this 5th day of Oct., 2004.



Notary Public

My Commission Expires:

5/1/08

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